

EPC COMMISSION MINUTES & AGENDA

MONTH February

YEAR 1987

ADM-1-1-1
February 1987 ✓

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Meeting in Des Moines, Iowa
February 20-21, 1987

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MINUTES
ENVIRONMENTAL PROTECTION COMMISSION
Wallace State Office Building
Des Moines, Iowa
February 17, 1987

The meeting of the Environmental Protection Commission was held in the Wallace State Office Building in Des Moines, Iowa on February 17, 1987 convening at 8:30 a.m.

MEMBERS PRESENT

Richard Timmerman, Linda Appelgate, Clark Yeager, Keith Uhl, Wayne Gieselman, Charlotte Mohr, Gary Priebe, Nancy Lee Siebenmann, Catherine Dunn, Robert Schlutz.

MEMBERS ABSENT

Donna Hammitt.

ADOPTION OF AGENDA

The following item was added to the meeting agenda: Item #10, Closed Season to discuss pending litigation (John Sarcone).

Motion was made by Richard Timmerman to approve the agenda as amended. Seconded by Wayne Gieselman. Motion carried unanimously.

ADOPTION OF MINUTES

Motion was made by Catherine Dunn to approve the minutes of January 20 and 26, 1987 as presented. Seconded by Charlotte Mohr. Motion carried unanimously.

REVIEW ENVIRONMENTAL PROTECTION DIVISION CONTRACT ACTIVITIES

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

CONTRACTS AND AGREEMENTS ENTERED INTO DURING THE MONTH OF JANUARY, 1986

Title and Number: Weeg Computer
Amount: \$1,000.00

Contractor: University of Iowa
Period: 9/30/86 - 9/30/87

Comments: Allows the Dept. access to Univ. of Iowa Graphics Software for the purpose of developing graphics for various environmental reports.

Title and Number: Property Lease, #C87-7310-03 Contractor: Linn County Health Dept.
Amount: \$41,083.00 Equipment Value Period: 30 days written notice
by either party

Comments: Leases air monitoring equipment to Linn County Health Department. Equipment will be used to maintain the Linn County Air Monitoring Network.
Original Agreement = \$26,033.00 This Amendment = \$15,050.00

Title and Number: Property Lease, #C87-7310-02 Contractor: Polk County
Amount: \$62,809.00 Equipment Value Period: 30 days written notice
by either party

Comments: Provides additional air monitoring equipment. Equipment will be used to maintain the Polk County Air Monitoring Network.
Original Agreement = \$47,759.00 This Amendment = \$15,050.00

Title and Number: Property Lease, #C87-7310-01 Contractor: Univ. of Iowa, Hygienic Lab.
Amount: \$90,439.00 Equipment Value Period: 30 days written notice
by either party

Comments: Lease various air monitoring network equipment to UHL. Equipment will be used to maintain the Statewide Air Monitoring Network.
Original Agreement = \$64,925.00 This Amendment = \$25,514.00

Discussion followed regarding the increase of cost for equipment.

Richard Timmerman questioned why added equipment is needed when the state is in compliance with guidelines. Allan Stokes responded that basically we would be upgrading equipment to provide a better degree of accuracy in monitoring.

Richard Timmerman requested that the Commission be provided an update on the air quality monitoring network at a future meeting.

REFERRALS TO THE ATTORNEY GENERAL

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code Section 22.7(4).

Shelter Shield of Iowa, Inc. - Buffalo Center
K & K Truckstop - Lenox
Warner Livestock, Inc. - Albia
Lawrence Payne - Ottumwa
Country Corner Cafe - Pacific Junction
Cedar Hills Apartments (Patti Frank) - Dubuque
Bozarth and Bell, Inc. - Davenport

Shelter Shield of Iowa, Inc. -- Mr. Combs stated that there has been some discussion with this facility since the litigation report was prepared. There is an oral agreement that the facility will install the required pollution control equipment. However, the department has not received a permit application or payment of the administrative penalty, therefore staff would prefer to continue with the referral.

Motion was made by Charlotte Mohr for referral to the Attorney General's Office. Seconded by Nancylee Siebenmann. Motion carried unanimously.

K & K Truckstop -- Mr. Combs briefed the Commission on the history of this case and recommended referral to collect the penalty assessed by the Administrative Order.

Motion was made by Richard Timmerman for referral to the Attorney General's Office. Seconded by Catherine Dunn. Motion carried unanimously.

Warner Livestock, Inc. -- Mr. Combs briefed the Commission on the history of this case and recommended direct referral rather than first issuing an administrative order.

Catherine Dunn asked if direct referral is done commonly, or if this is an exception to the rule because of the violation. Mr. Combs replied that this case is an exception because this person has told staff that he is not going to spend any money on waste controls.

There was concern by the Commissioners about bypassing normal procedures. Discussion followed regarding the issuance of an administrative order and the time line for same.

Motion was made by Linda Appelgate for referral to the Attorney General's Office. Seconded by Keith Uhl.

Chairman Schlutz requested a roll call vote.

"Aye" vote was cast by Commissioner Appelgate. "Nay" votes were cast by Commissioners Timmerman, Yeager, Uhl, Gieselman, Mohr, Priebe, Siebenmann, Dunn and Schlutz. Motion failed 9 to 1.

Staff will proceed with issuing an administrative order to Warner Livestock, Inc.

Lawrence Payne -- Mr. Combs briefed the Commission on the history of this case and recommended referral.

Motion was made by Nancylee Siebenmann for referral to the Attorney General's Office. Seconded by Wayne Gieselman. Motion carried unanimously with Clark Yeager abstaining.

Country Corner Cafe -- Mr. Combs briefed the Commission on the history of this case and recommended referral.

Motion was made by Linda Appelgate for referral to the Attorney General's Office. Seconded by Catherine Dunn. Motion carried unanimously.

Cedar Hills Apartments (Patti Frank) -- Mr. Combs briefed the Commission on the history of this case and recommended referral.

Motion was made by Richard Timmerman for referral to the Attorney General's Office. Seconded by Wayne Gieselman. Motion carried unanimously.

Bozarth and Bell, Inc. -- Mr. Combs briefed the Commission on the history of this case and recommended referral.

Motion was made by Charlotte Mohr for referral to the Attorney General's Office. Seconded by Catherine Dunn. Motion carried unanimously.

CORRECTIVE AMENDMENTS TO 1986 REORGANIZATION BILL

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Senate File 2175, the 1986 State Government Reorganization Bill, left a number of sections of the Code inconsistent with the intent of the reorganization and made some changes that are not correct. In an effort to make the Code internally consistent with regard to Department of Natural Resources provisions, a number of changes to the Code are proposed. These changes were reviewed with both Commissions at their joint meeting in November, 1986. The exact wording of the amendments were reviewed with the EPC Legislative Committee on February 11, 1987. A document that describes the changes recommended to be made and provides the exact wording of the amendment for the changes to the chapters pertaining to environmental protection will be distributed separately and reviewed at the meeting.

In order to make the review of these changes easier, each Commissioner is encouraged to bring their copy of the Code to the meeting.

An Act relating to the Department of Natural Resources and making corrective amendments to the reorganization.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA.

Explanation: 455B.103(1) deletes the authority of the commission to adopt rules governing the administration of the department. This is redundant, as it also exists in Section 455A.6. Also, the duty of the director to recommend adoption of rules by the commission to implement the programs of 455B.103(2); the Director's authority to accept grants with commission approval (455B.103(9)) and the authority of the director to represent the state in interstate negotiations (455B.103(10)) are all moved from 455B.103 to 455A.4.

Section _____. Section 455B.103, subsections 1, 2, 9 and 10, Code 1985, are repealed.

Section _____. Section 455A.4, subsection 1, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Section 1894, is amended by adding new paragraphs j, k, and l as follows:

j. Recommend to the appropriate commission the adoption of rules to implement the programs and services assigned to it.

k. Accept, receive and administer grants or other funds or gifts from public or private agencies, including the federal government, for the purposes and programs assigned to the department subject to the approval of the appropriate commission.

l. Represent the state in all matters pertaining to plans, procedures, negotiations, and agreements for interstate compacts relating to the purposes or programs assigned to the department. Any agreement is subject to the approval of the appropriate commission.

Explanation: Removes from 455B.105(3) "it is the intent of the General Assembly that the commission exercise strict oversight of the operations of the department." Also, the reference to rules of the Executive Committee before January 1, 1981. Clarifies 455B.105(4), the approval of the commission of the Environmental Protection Division budget as prepared pursuant to 455A. 455B.105(6) has been repealed because the duties are now the director's under 455A. Repeal of 455B.105(8) eliminates the requirement of the commission to obtain a public employee's fidelity bond for the department. Repeal of 455B.105(11) deletes the requirement for a state water coordinator.

Section _____. Section 455B.105, subsections 3 and 4, Code 1985, are amended to read as follows:

3. Adopt, modify, or repeal rules necessary to implement this chapter and the rules deemed necessary for the effective administration of the department. When the commission proposes or adopts rules to implement a specific federal environmental program and the rules impose requirements more restrictive than the federal program being implemented requires, the commission shall identify in its notice of intended action or adopted rule preamble each rule that is more restrictive than the federal program requires and shall state the reasons for proposing or adopting the more restrictive requirement. In addition, the commission shall include with its reasoning a financial impact statement detailing the general impact upon the affected parties. ~~It is the intent of the general assembly that the commission exercise strict oversight of the operations of the department.~~ The rules shall include departmental policy relating to the disclosure of information on a violation or alleged violation of the rules, standards, permits or orders issued by the department and keeping of confidential information obtained by the department in the administration and enforcement of this chapter. ~~Rules adopted by the executive committee before January 1, 1981 shall remain effective until modified or rescinded by action of the commission.~~

4. Approve the departmental environmental protection division budget request prepared by the director pursuant to 455A.4(1)"c" prior to submission to the state comptroller. The commission may increase, decrease, or strike any proposed expenditure within the departmental division budget request before granting approval.

Section _____. Section 455B.105, subsections 6, 8 and 11, Code 1985, are repealed.

Explanation: 455B.107 repeals the authorization of issuance of state warrants by the Comptroller and the repeal of 455B.108 repeals the provision for the Department of General Services providing the DNR with office facilities.

Section _____. Sections 455B.107 and 455B.108, Code 1985, are repealed.

Explanation: Section 455B.131(8) changes "by the department" to "of the department".

Section _____. Section 455B.131, subsection 8, Code 1985, is amended as follows:

8. "Major stationary source" means a stationary air contaminant source which directly emits, or has the potential to emit, 100 tons or more of an air pollutant per year including a major source of fugitive emissions of a pollutant as determined by rule ~~by~~ of the department or the administrator of the United States Environmental Protection Agency.

Explanation: 455B.133(4)(b) regarding the exemption of Iowa coal from sulphur dioxide standards is repealed as the statutory exemption expired December 31, 1983. The other changes in Section 455B.133 change "commission" to "department" in sections referencing technical judgments; relating to forms, information, and procedures.

Section _____. Section 455B.133, subsections 4, 5, 6, and 7, Code 1985, is amended as follows:

4. Adopt, amend or repeal emission limitations or standards relating to the maximum quantities of air contaminants that may be emitted from any air contaminant source. The standards or limitations adopted under this section shall not exceed the standards or limitations promulgated by the administrator of the United States environmental protection agency or the requirements of the federal Clean Air Act as amended to January 1, 1979. This does not prohibit the commission from adopting a standard for a source or class of sources for which the United States environmental protection agency has not promulgated a standard.

a. (1) The commission shall establish standards of performance unless the judgment of the commission it is not feasible to adopt or enforce a standard of performance. If it is not feasible to adopt or enforce a standard of performance, the commission may adopt a design, equipment, material, work practice or operational standard, or combination of those standards in order to establish reasonably available control technology or the lowest achievable emission rate in the nonattainment areas, or in order to establish best available control technology in areas subject to prevention of significant deterioration review, or in order to adopt the emission limitations promulgated by the administrator of the United States environmental protection agency under section 111 or 112 of the federal Clean Air Act as amended to January 1, 1979.

(2) If a person establishes to the satisfaction of the commission that an alternative means of emission limitation will achieve a reduction in emissions of an air pollutant at least equivalent to the reduction in emissions of the air pollutant achieved under the design, equipment, material, work practice or

operational standard, the commission shall amend its rules to permit the use of the alternative by the source for purposes of compliance with this paragraph with respect to the pollutant.

(3) A design, equipment, material, work practice or operational standard promulgated under this paragraph shall be promulgated in terms of a standard of performance when it becomes feasible to promulgate and enforce the standard in those terms.

(4) For the purpose of this paragraph, the phrase "not feasible to adopt or enforce a standard of performance" refers to a situation in which the commission department determines that the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

b. If the maximum standards for the emission of sulphur dioxide from solid fuels have to be reduced in an area to meet ambient air quality standards, a contract for coal produced in Iowa and burned by a facility in that area that met the sulphur dioxide emission standards in effect at the time the contract went into effect shall be exempted from the decreased requirement whichever first occurs, if there is any other reasonable means available to satisfy the ambient air quality standards. To qualify under this subsection, the contract must be recorded with the county recorder of the county where the burning facility is located within thirty days after the signing of the contract.

c. The degree of emission limitation required for control of an air contaminant under an emission standard shall not be affected by that part of the stack height of a source that exceeds good engineering practice, as defined in rules, or any other dispersion technique. This paragraph shall not apply to stack heights in existence before December 30, 1979, or dispersion techniques implemented before that date.

5. Classify air contaminant sources according to levels and types of emissions, and other characteristics which relate to air pollution. The commission may require, by rule, the owner or operator of any air contaminant source to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods, sample such emissions in accordance with such methods at such locations and intervals, and using such procedures as the commission department shall prescribe, and provide such other information as the commission department may reasonably require. Such classifications may be for application to the state as a whole, or to any designated area of the state, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

6. a. Require, by rules, notice of the construction of any air contaminant source which may cause or contribute to air pollution, and the submission of plans and specifications to the department, or other information deemed necessary, for the installation of air contaminant sources and related control equipment. The rules shall allow the owner or operator of a major stationary source to elect to obtain a conditional permit in lieu of a construction permit. The rules relating to a conditional permit for an electric power generating facility subject to chapter 476A and other major stationary sources shall allow the submission of engineering descriptions, flow diagrams and schematics that quantitatively and qualitatively identify emission streams and alternative control equipment that will provide compliance with emission standards. Such rules shall not specify any particular method to be used to reduce undesirable levels of emissions, nor type, design, or method of installation of any equipment to be used to reduce such levels of emissions, nor the type, design, or method of installation or type of construction of any

manufacturing processes or kinds of equipment, nor specify the kind or composition of fuels permitted to be sold, stored, or used unless authorized by subsection 4 of this section.

b. The ~~commission~~ department may give technical advice pertaining to the construction or installation of the equipment or any other recommendation.

7. ~~Commission Department~~ rules establishing maximum permissible sulfate content shall not apply to an expansion of an industrial anaerobic lagoon facility which was constructed prior to February 22, 1979.

Section _____. Section 455B.134, subsection 3, paragraph d, Code 1985, is amended as follows:

d. All applications for conditional permits for electric power generating facilities shall be subject to such notice and opportunity for public participation as may be consistent with chapter 476A or any agreement pursuant thereto under chapter 28E. The applicant or intervenor may appeal to the commission from the denial of a conditional permit or any of its conditions. For the purposes of chapter 476A, the issuance or denial of a conditional permit by the director or by the commission upon appeal shall be a determination that the electric power generating facility does or does not meet the permit and licensing requirements of the ~~commission~~ department. The issuance of a conditional permit shall not relieve the applicant of the responsibility to submit final and detailed construction plans and drawings and an application for a construction permit for control equipment that will meet the emission limitations established in the conditional permit.

Explanation: Delete "and the director" and "or the director" from section.

Section _____. Section 455B.136, Code 1985, is amended as follows:
455B.136 Assistance on demand.

The department ~~and the director~~ may request and receive assistance from any other agency, department, or educational institution of the state, or political subdivision thereof, when it is deemed necessary or beneficial by the department ~~or the director~~. The department may reimburse such agencies for special expense resulting from expenditures not normally a part of the operating expenses of any such agency.

Explanation: Deletes "adopted by" and adds the word "of" when speaking of rules of the department.

Section _____. Section 455B.143, Code 1985, is amended as follows:
455B.143 Variance.

Any person who owns or operates any plant, building, structure, process, or equipment may apply for a variance from the rules or standards ~~adopted by~~ of the department by filing an application with the department. The application shall be accompanied by such information and data required by the department.

Explanation: A substantive change for the first paragraph of 455B.145 is proposed in other legislation to provide the department with concurrent jurisdiction with local air programs.

Section _____. Section 455B.145 and subsection 1, paragraph a, Code 1985, is amended as follows:

455B.145 Acceptance of local program.

When an air pollution control program conducted by a political subdivision, or a combination thereof, is deemed upon review as provided in section 455B.134, to be consistent with the provisions of this division II or the rules established thereunder, the director shall accept such program in lieu of state administration and regulation of air pollution within the political subdivisions involved. Nothing contained in this section shall be construed to limit the power of the director to take emergency action under the provisions of sections 455B.139 and 455B.141 or to administer a part of the local program that has been suspended.

1. In evaluating an air pollution control program, consideration shall be given to whether such program provides for the following:

a. Ordinances, rules and standards establishing requirements consistent with, or more strict than, those imposed by this division II or rules and standards adopted by of the department.

Explanation: Section 455B.145(2)c corrects the reorganization bill to provide for appeals to the commission rather than to the department.

Section _____. Section 455B.145, subsection 2, paragraph c, Code 1985, is amended as follows:

c. If the director determines at any time that a local air pollution program is being conducted in a manner inconsistent with the substantive provisions of this division II or the rules adopted thereunder, the director shall notify the political subdivision, citing the deviations from the acceptable standards and the corrective measures to be completed within a reasonable amount of time. If the corrective measures are not implemented as prescribed, the director shall suspend in whole or in part the certificate of acceptance of such political subdivision and shall administer the regulatory provisions of said division in whole or in part within the political subdivision until the appropriate standards are met. Upon receipt of evidence that necessary corrective action has been taken, the director shall reinstate the suspended certificate of acceptance, and the political subdivision shall resume the administration of the local air pollution control program within its jurisdiction. In cases where the certificate of acceptance is suspended, the political subdivision may appeal the suspension to the department commission.

Explanation: Deletes "or the director" from Section 455B.146.

Section _____. Section 455B.146, code 1985, is amended as follows:

455B.146 Civil action for compliance.

If any order, permit or rule of the department is being violated, the attorney general shall, at the request of the department ~~or the director~~, institute a civil action in any district court for injunctive relief to prevent any further violation of the order, permit or rule, or for the assessment of a civil penalty as determined by the court, not to exceed five thousand dollars per day for each day such violation continues, or both such injunctive relief and civil penalty.

Section _____. Section 455B.147, subsections 1 and 2, Code 1985, are amended as follows:

Explanation: Section 455B.147 corrects the reorganization bill to provide for procedures on appeal when the commission enters final orders rather than the department.

455B.147 Failure - procedure.

1. If the director fails to take action within sixty days after an application for a variance is made, or if the ~~department~~ commission fails to enter a final order or determination within sixty days after the final argument in hearing on appeal, the person seeking the action may treat the failure to act as a grant of the requested variance, or of a finding favorable to the respondent in hearing on appeal, as the case may be.

2. If the director fails to take action within one hundred twenty days after a completed application for a construction permit is made, or if the ~~department~~ commission fails to enter a final order or determination within sixty days after the final argument in a hearing on appeal of the permit, the person seeking the action may treat the failure to act as a grant of the requested permit, or of a finding favorable to the respondent in a hearing on appeal, as the case may be.

Explanation: Section 455B.173(1) and (7) are repealed as duties of the commission and transferred to duties of the director as Section 455B.174(6) and (7).

Section _____. Section 455B.173, subsections 1 and 7, Code 1985, are repealed.

Section _____. Section 455B.174, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Sections 1899 and 1899B is amended by adding new subsections 6 and 7 as follows:

6. Develop comprehensive plans and programs for the prevention, control and abatement of water pollution.

7. Adopt a statewide plan for the provision of safe drinking water under emergency circumstances. All public agencies, as defined in chapter 28E, shall co-operate in the development and implementation of the plan. The plan shall detail the manner in which the various state and local agencies shall participate in the response to an emergency. The department may enter into any agreement, subject to approval of the commission, with any state agency or unit of local government or with the federal government which may be necessary to establish the role of such agencies in regard to the plan. This plan shall be co-ordinated with disaster emergency plans.

Explanation: Section 455B.181 is amended to correct an appeal to the "commission" rather than the "department."

Section _____. Section 455B.181, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Sections 1899 and 1899B, is amended as follows:

455B.181 Variances and exemptions.

The director may, after public notice and hearing, grant exemptions from a maximum contaminant level or treatment technique, or both. The director may

also grant a variance from drinking water standards for public water supply systems when the characteristics of the raw water sources, which are available to a system, cannot meet the requirements with respect to maximum contaminant level of the standards despite application of the best treatment techniques which are generally available and if the director determines that the variance will not result in an unreasonable risk to the public health. A schedule of compliance may be prescribed by the director, at the time the variance or exemption is granted. The director shall also require the interim measures to minimize the contaminant levels of systems subject to the variance or exemption as may reasonably be implemented. The director may also issue variances from other rules of the department if necessary and appropriate. The denial of a variance or exemption may be appealed to the department commission.

Explanation: 455B.185 deletes "commission and the" leaving the director to make the requests from other public bodies.

Section _____. Section 455B.185, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Section 1899, is amended as follows:

455B.185 Data from departments.

The ~~commission and the~~ director may request and receive from any department, division, board, bureau, commission, public body, or agency of the state, or of any political subdivision thereof, or from any organization, incorporated or unincorporated, which has for its object the control or use of any of the water resources of the state, such assistance and data as will enable the ~~commission or the~~ director to properly carry out their activities and effectuate the purposes of this part 1 of division III. The department shall reimburse such agencies for special expense resulting from expenditures not normally a part of the operating expenses of any such agency.

Explanation: 455B.187 is amended to delete "Iowa geological survey" when referring to rules of the department.

Section _____. Section 455B.187, Code 1985, is amended as follows:

455B.187 Water well construction.

A contractor shall not engage in well construction or reconstruction without first registering as required in department rules. Water wells shall not be constructed, reconstructed, or abandoned by a person except as provided in this part or rules adopted pursuant to this part. Within thirty days after construction or reconstruction of a well, a contractor shall provide well information required by rule to the department ~~and the Iowa geological survey~~.

Explanation: 455B.191 and 455B.241(3)(c) conforms the wording to the rest of the chapter in referring to rules of the department.

Section _____. Section 455B.191, subsection 5, 1985 Code Supplement, is amended as follows:

5. In all proceedings with respect to any alleged violation of the provisions of this part 1 of division III or any rule ~~established by the~~

~~commission or~~ of the department, the burden of proof shall be upon ~~the commission or~~ the department except in an action for contempt as provided in section 455B.182.

Section _____. Section 455B.241, subsection 3, paragraph c, Code 1985, is amended as follows:

c. Which conforms with applicable rules of the ~~commission~~ department.

Explanation: 455B.262(1) deletes the reference to "Iowa geological survey" and substitutes the "department."

Section _____. Section 455B.262, subsection 1, Code 1985, is amended as follows:

455B.262 Declaration of policy and planning requirements.

1. It is recognized that the protection of life and property from floods, the prevention of damage to lands from floods, and the orderly development, wise use, protection, and conservation of the water resources of the state by their considered and proper use is of paramount importance to the welfare and prosperity of the people of the state, and to realize these objectives, it is the policy of the state to correlate and vest the powers of authority to assess the water needs of all water users at five-year intervals for the twenty years beginning January 1, 1985, and ending December 31, 2004, utilizing a data base developed and managed by the Iowa geological survey department, and to prepare a general plan of water allocation in this state considering the quantity and quality of water resources available in this state designed to meet the specific needs of the water users. The department shall also develop and the department shall adopt no later than June 30, 1986, a plan for delineation of flood plain and floodway boundaries for selected stream reaches in the various river basins of the state. Selection of the stream reaches and assignment of priorities for mapping of the selected reaches shall be based on consideration of flooding characteristics, the type and extent of existing and anticipated flood plain development in particular stream reaches, and the needs of local governmental bodies for assistance in delineating flood plain and floodway boundaries. The plan of flood plain mapping shall be for the period from June 30, 1986, to December 31, 2004. After the department adopts a plan of flood plain mapping, the department shall submit a progress report and proposed implementation schedule to the general assembly biennially. The department may modify the flood plain mapping plan as needed in response to changing circumstances.

Explanation: Section 455B.263 changes most of the duties under the water allocation and use section from the "commission" to the "department." The exceptions are in Section 1 and the repeal of Section 9 which is redundant to 455A.4.

Section _____. Section 455B.263, Code 1985, is amended as follows:
455B.263 Duties.

1. The commission shall deliver to the general assembly by January 15, 1987, a plan embodying a general groundwater protection strategy for this state which considers the effects of potential sources of groundwater contaminations on groundwater quality. The plan shall evaluate the ability of existing laws and programs to protect groundwater quality and recommend any necessary additional or alternative laws and programs. The department shall

develop the plan with the assistance of an in consultation with representatives of agriculture, industry, and public and other interests. The commission shall report to the general assembly on the status and implementation of the plan on a biennial basis. This section does not preclude the implementation of existing or new laws or programs which may protect groundwater quality.

2. The commission shall designate the official representative of this state on all comprehensive water resources planning groups for which state participation is provided. The ~~commission~~ department shall coordinate state planning with local and national planning and, in safeguarding the interests of the state and its people, shall undertake the resolution of any conflicts that may arise between the water resources policies, plans, and projects of the federal government and the water resources policies, plans, and projects of the state, its agencies, and its people. This section does not limit or supplant the functions, duties, and responsibilities of other state or local agencies or institutions with regard to planning of water-associated projects within the particular area of responsibility of those state or local agencies or institutions.

3. The ~~commission~~ department shall enter into negotiations and agreements with the federal government relative to the operation of, or the release of water from, any project that has been authorized or constructed by the federal government when the ~~commission~~ department deems the negotiations and agreements to be necessary for the achievement of the policies of this state relative to its water resources.

4. The ~~commission~~ department, on behalf of the state, shall enter into negotiations with the federal government relative to the inclusion of conservation storage features for water supply in any project that has been authorized by the federal government when the commission deems the negotiations to be necessary for the achievement of the policies of this state, however, an agreement reached pursuant to these negotiations does not bind the state until enacted into law by the general assembly.

5. A water user who benefits from the development by the federal government of conservation storage for water supply shall be encouraged to assume the responsibility for repaying to the federal government any reimbursable costs incurred in the development, and a user who accepts benefits from the developments financed in whole or part by the state shall assume by contract the responsibility of repaying to the state the user's reasonable share of the state's obligations in accordance with a basis which will assure payment within the life of the development. An appropriation, diversion, or use shall not be made by a person of any waters of the state that have been stored or released from storage either under the authority of the state or pursuant to an agreement between the state and the federal government until the person has assumed by contract the person's repaying responsibility. However, this subsection does not infringe upon any vested property interests.

6. In its contracts with water users for the payment of state obligations incurred in the development of conservation storage for water supply, the ~~commission~~ department shall include the terms deemed reasonable and necessary:

- a. To protect the health, safety, and general welfare of the people of the state.
- b. To achieve the purposes of this chapter.
- c. To provide that the state is not responsible to any person if the waters involved are insufficient for performance.

The ~~commission~~ department may designate and describe any such contract, and describe the relationships to which it relates, as a sale of storage capacity,

a sale of water release services, a contract for the storage or sale of water, or any similar terms suggestive of the creation of a property interest. The term of the contracts shall be commensurate with the investment and use concerned, but the commission department shall not enter into any such contract for a term in excess of the maximum period provided for water use permits.

7. The commission department shall procure flood control works and water resources projects from or by cooperation with any agency of the United States, by cooperation with the cities and other subdivisions of the state under the laws of the state relating to flood control and use of water resource, and by cooperation with the action of landowners in areas affected by the works or projects when the commission department deems the projects to be necessary for the achievement of the policies of this state.

8. The commission department shall promote the policies set forth in this part and shall represent this state in all matters within the scope of this part. The commission shall adopt rules pursuant to chapter 17A as necessary to transact its business and for the administration and exercise of its powers and duties.

9. In carrying out its duties, the commission may accept gifts, contributions, donations and grants, and use them for any purpose within the scope of this part.

Explanation: Section 455B.265(1) designates the department as determining the withdrawal of water.

Section _____. Section 455B.265, subsection 1, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Sections 1899A and 1899B, is amended as follows:

455B.265 Permits for diversion, storage and withdrawal.

1. In its consideration of applications for permits, the department shall give priority in processing to persons in the order that the applications are received, except where the application of this processing priority system prevents the prompt approval of routine applications or where the public health, safety or welfare will be threatened by delay. If the department determines after investigation that the diversion, storage or withdrawal is consistent with the principals and policies of beneficial use and ensuring conservation, the department shall grant a permit. Regardless of the request in the application, the ~~director or the department on appeal~~ may determine the duration and frequency of withdrawal and the quantity of water to be diverted, stored or withdrawn pursuant to the permit. Each permit granted after July 1, 1986, shall include conditions requiring routine conservation practices, and requiring implementation of emergency conservation measures after notification by the department.

Explanation: Section 455B.267(1) and 455B.275(7) deletes "for the commission" leaving the director to issue the beneficial use permits

Section _____. Section 455B.267, subsection 1, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Section 1899A, is amended as follows:

455B.267 Permits for beneficial use - prohibitions.

1. The director ~~or the commission~~ may issue a permit for beneficial use of water in a watercourse if the established average minimum water flow is preserved.

Explanation: Section 455B.273 deletes "or the commission" leaving the order of the director alone, which of course could then be appealed to the commission.

Section _____. Section 455B.273, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Section 1899, is amended as follows:

455B.273 Disposal of permit.

A permittee may sell, transfer, or assign a permit by conveying, leasing, or otherwise transferring the ownership of the land described in the permit, but the permit does not constitute ownership or absolute rights of use of the waters. The waters remain subject to the principle of beneficial use and orders of the director ~~or commission~~.

Section _____. Section 455B.275, subsection 7, Code 1985, is amended as follows:

7. When approving a request to straighten a stream, the department may establish as a condition of approval a permanent prohibition against tillage of land owned by the person receiving the approval and lying within a minimum distance from the stream sufficient in the judgment of the director ~~or commission~~ to hold soil erosion to reasonable limits. The department shall record the prohibition in the office of the county recorder of the appropriate county and the prohibition shall attach to the land.

Explanation: Changes the responsibility for enforcing the rules of the commission to the department.

Section _____. Section 455B.276, Code 1985, is amended as follows:

455B.276 Flood plains - encroachment limits.

The commission may establish and enforce rules, for the orderly development and wise use of the flood plains of any river or stream within the state and alter, change, or revoke the rules. The ~~commission~~ department shall determine the characteristics of floods which reasonably may be expected to occur and may established by order encroachment limits, protection methods, and minimum protection levels appropriate to the flooding characteristics of the stream and to reasonable use of the flood plains. The order shall fix the length of flood plains to be regulated at any practical distance, the width of the zone between the encroachment limits so as to include portions of the flood plains adjoining the channel, which with the channel, are required to carry and discharge the flood waters or flood flow of the river or stream, and the design discharge and water surface elevations for which protection shall be provided for projects outside the encroachment limits but within the limits of inundation. Plans for the protection of projects proposed for areas subject to inundation shall be reviewed as plans for flood control works within the purview of section 455B.277. An order establishing encroachment limits shall not be issued until notice of the proposed order is given and opportunity for public hearing given for the presentation of protests against the order. In establishing the limits the ~~commission~~ department shall avoid to the greatest possible degree the evacuation of persons residing in the area of a floodway, the removal of residential structures occupied by the persons in the area of a

floodway, and the removal of structures erected or made prior to July 4, 1965, which are located on the flood plains of a river or stream but not within the area of a floodway.

The ~~commission~~ department shall cooperate with and assist local units of government in the establishment of encroachment limits, flood plain regulations, and zoning ordinances relating to flood plain areas within their jurisdiction. Encroachment limits, flood plain regulations, or flood plain zoning ordinances proposed by local units of government shall be submitted to the department for review and approval prior to adoption by the local units of government. Changes or variations from an approved regulation or ordinance as it relates to flood plain use are subject to approval by the ~~commission~~ department prior to adoption. Individual applications, plans, and specifications and individual approval orders shall not be required for works on the flood plains constructed in conformity with encroachment limits, flood plain regulations, or zoning ordinances adopted by the local units of government and approved by the ~~commission~~ department.

Explanation: Section 455B.277, unnumbered paragraph 2, is amended to eliminate the "state conservation commission" and replace it with "state agencies" when undertaking projects relating to flood control.

Section _____. Section 455B.277, unnumbered paragraph 2, Code 1985, is amended as follows:

This section applies to drainage districts, soil conservation districts, ~~the state conservation commission~~ state agencies, political subdivisions of the state, and private persons undertaking projects relating to flood control.

Explanation: Section 455B.278 and 455B.279 corrects several oversights in the reorganization bill pertaining to "executive director" and "commission" and "department."

Section _____. Section 455B.278, Code 1985, is amended as follows:
455B.278 Permit application procedures.

1. The commission shall adopt, modify, or repeal rules establishing procedures by which permits required under this part shall be issued, suspended, revoked, modified, or denied. The rules shall include provisions for application, public notice and opportunity for public hearing, and contested cases. Public notice of a decision by the ~~executive~~ director to issue a permit shall be given in a manner designed to inform persons who may be adversely affected by the permitted project or activity.

2. Action by the department upon an application for a permit required under this part may be appealed to the commission by the applicant or any affected person within thirty days of the department's action. A hearing before the commission or its designee is a contested case. The hearings and judicial review of decisions of the commission shall be carried out in accordance with chapter 17A. Notwithstanding chapter 17A, petitions for judicial review may be filed in the district court of Polk county or of any county in which the property affected is located. If the commission, the district court, or the supreme court determines that the action of the ~~commission~~ department shall be stayed, the petitioner shall file an appropriate bond approved by the court.

Section _____. Section 455B.279, subsection 1, Code 1985, as amended by 1986 Iowa Acts, House File 2221, Section 3, is amended as follows:

455B.279 Violation.

1. The ~~executive~~ director may issue any order necessary to secure compliance with or prevent a violation of this part or the rules adopted pursuant to this part. Within thirty days of issuance, the order may be appealed to the commission by filing a notice of appeal with the ~~executive~~ director. The appeal shall be conducted as a contested case pursuant to chapter 17A and the commission may affirm, modify, or revoke the order. The department may request legal services as required from the attorney general, including any legal proceeding necessary to obtain compliance with this part and rules and orders issued under this part.

Explanation: Section 455B.280 provides that the department and conservancy districts shall carry out the purposes of Chapter 467D.

Section _____. Section 455B.280, unnumbered paragraph 1 and subsection 2, Code 1985, is amended as follows:

455B.280 Coordination with conservancy districts*.

The ~~commission~~ department and the boards of the conservancy districts established by chapter 467D shall coordinate their efforts in carrying out the purposes of this chapter and chapter 467D. In addition to other powers and duties conferred by law, the department shall:

1. Offer advice and assistance as appropriate to the boards of the several conservancy districts in the state in discharging their powers and duties.
2. Review and make recommendations as necessary to bring the plan of each of the conservancy districts, and any subsequent changes in the plan, into conformity with the statewide water resources plan established by the ~~commission~~ pursuant to section 455B.263.

Explanation: Sections 455B.301, 455B.311, 455B.362 are self-explanatory.

Section _____. Sections 455B.301 and 455B.311, Code 1985, are amended by striking the words "executive director" where they appear in those sections and inserting in lieu thereof the word "director."

Section _____. Section 455B.362, Code 1985, is amended as follows:

455B.362 Director's duties.

The director, ~~at the direction of the commission,~~ shall establish programs to encourage the active support of business, industry and the general public for litter control.

The director, ~~at the direction of the commission,~~ shall co-ordinate and encourage the co-operation of state and local public agencies in the administration of this part 3 of division IV.

Explanation: Section 455B.383 changes the powers and duties to the commission and repeals the development of the comprehensive plan for hazardous conditions and transfers that duty to the duty of the director under Section 455B.384(3).

Section _____. Section 455B.383, Code 1985, is amended as follows:

455B.383 Powers and duties of ~~department~~ commission.

The ~~department~~ commission shall: 1. Establish such rules pursuant to the provisions of chapter 17A as are necessary to protect the public from unnecessary exposure to hazardous substances.

2. Develop a comprehensive plan for the prevention, abatement and control of hazardous conditions within the state.

Section _____. Section 455B.384, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Section 1899, is amended as follows:

455B.384 Powers and duties of the director.

The director shall:

1. Provide technical advice and assistance to other state agencies, to political subdivisions of the state and to other persons upon request for the control, abatement, and prevention of hazardous conditions.

2. Collect and disseminate such information, publish such guidelines or reports, and conduct such educational programs deemed necessary to implement the provisions of this part 4 of division IV. Educational programs may be conducted in cooperation with other public or private agencies through agreements concluded pursuant to chapter 28E.

3. Develop a comprehensive plan for the prevention, abatement and control of hazardous conditions within the state.

34. Exercise such other powers consistent with the Code and the provisions of this part 4 as the commission may direct.

Explanation: Section 455B.391 corrects a reorganization oversight regarding findings of fact either by the director or of the commission rather than the department which does not find facts.

Section _____. Section 455B.391, subsection 1, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Sections 1899 and 1899B, is amended as follows:

455B.391 Duties of attorney general.

1. The attorney general shall, at the request of the department, institute any legal proceedings, including an action for an injunction or temporary injunction, necessary to obtain compliance with the provisions of this part 4 of division IV. In any legal proceedings any previous findings of fact of the director or the ~~department~~ commission after due notice and hearing shall be conclusive if supported by substantial evidence in the record when the record is viewed as a whole.

Explanation: Sections 455B.396 and 455B.397 correct reorganization oversights by substituting "director" for "executive director."

Section _____. Sections 455B.396 and 455B.397. Code 1985, are amended by striking the words "executive director" where they appear in those sections and inserting in lieu thereof the word "director."

Explanation: Section 455B.412(1) is repealed and added to 455B.413 which is a duty of the director. All of the other

duties remaining in 455B.412 are rulemaking authority for hazardous waste management for the commission.

Section _____. Section 455B.412, Code 1985, subsection 1, is amended as follows:

455B.412 Duties of the ~~department~~ commission.

Section _____. Section 455B.412, Code 1985, subsection 1, is amended by striking the subsection.

Section _____. Section 455B.412, subsections 2 through 5 are amended by renumbering them 1 through 4, respectively, and further amending new subsection 1 as follows:

1. Adopt rules establishing criteria for identifying the characteristics of hazardous wastes and listing hazardous wastes that are subject to this part. The ~~department~~ commission shall consider toxicity, persistence and degradability in nature, potential for accumulation in tissue, and related factors including flammability, corrosiveness, and other hazardous characteristics.

Section _____. Section 455B.413, Code 1985, is amended by adding a new subsection 4, as follows:

4. Develop comprehensive plans and programs for the state for the management of hazardous waste. In the development of plans and programs, the director shall recognize the need for assuring that suitable facilities and sites for treatment and disposal are available for hazardous wastes generated in Iowa.

Explanation: Section 455B.427(5), 455B.462(1)(a), 455B.491 are apparent corrections of reorganization oversight in names.

Section _____. Section 455B.427, subsection 5, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Section 1899, is amended as follows:

5. The director shall work with the department of public health when assessing the effects of an abandoned or uncontrolled disposal site on human health.

Section _____. Sections 455B.462, subsection 1, paragraph a and Section 455B.491, Code 1985, are amended by striking the words "commission" or "commission's" where they appear in these sections and inserting in lieu thereof the word "director."

Explanation: Section 455D.17, correction of names in reorganization bill.

Section _____. Section 455D.17, unnumbered paragraph 1, Code 1985, is amended as follows:

455D.17 ~~Recommendation of interagency council~~ Interagency recommendation.

The ~~commissioner~~ director of public health, the ~~labor commissioner~~ director of the department of employment services, and the ~~administrator of the environmental protection division~~ director of the department of natural resources under written signatures of all these parties may recommend any of the following actions:

Section _____. 1986 Iowa Acts, Senate File 2175, Section 1804, subsection 1, paragraph c (New Section 455A.4(1)(c)), is amended as follows:

Explanation: Section 455A.4(1)(c), 107.19, and 111B.8 have to do with the budgeting responsibilities of the director and the deletion of redundant provisions.

Section 1804. 455A.4 General powers and duties of the director.

1. Except as otherwise provided by law and subject to rules adopted by the natural resource commission and the environmental protection commission, the director shall:

a. Plan, direct, coordinate and execute the functions vested in the department.

b. Provide overall supervision, direction and coordination of functions to be administered by the administrators under chapters 84, 93, 106, 108, 108A, 109, 109A 110, 110A, 110B, 111, 111B, 111D, 112, 305, 321G, 455B, 455C and 469.

c. Annually compile a comprehensive program budget which reflects all fiscal matters related to the operation of the department and each program, subprogram, and activity in the department in accordance with section 8.23.

The director shall obtain the advice of the natural resource commission, the environmental protection commission, and the preserves advisory board regarding the department's budget.

Section _____. Section 107.19, unnumbered paragraph 2, Code 1985, is repealed.

Section _____. Section 111B.8, subsection 12, Code 1985, as amended by 1986 Iowa Acts, Senate File 2175, Section 1872, is repealed.

Keith Uhl made some preparatory remarks stating that he and Mr. Combs went over this document last week and that the general thrust is to basically clarify the Commission's policy making and hearing roles and the Department's technical and administrative roles.

Mr. Combs gave further preface to help the Commission understand the changes which were made. He then explained each change in detail and the reasoning for the change.

The Commission proposed the following changes be made to the proposed corrective amendments.

Page 5, top of page under Explanation, the following sentence will be stricken: "it is the intent of the General Assembly that the Commission exercise strict oversight of the operations of the department."

Page 5, middle of page, the same sentence will not be stricken in this section.

Page 7, line 5 (in the stricken section), the following words were added following the word "requirement" -- until expiration of the contract period or December 31, 1983.

Page 9, (stricken section) under 455B.145 should be deleted.

Page 19, under 455B.412 subsection 1 change it to read "Approve comprehensive plans and programs for the state for the management of hazardous waste as developed by the department."

Motion was made by Catherine Dunn for approval of the Corrective Amendments to the 1986 Reorganization Bill as amended in today's meeting. Seconded by Gary Priebe. Motion carried unanimously.

PUBLIC PARTICIPATION

Chairman Schlutz announced public participation at 10:30 a.m., no one present requested to speak.

NOTICE OF INTENDED ACTION -- CHAPTERS 12, 14, 16 AND 18C -- WASTEWATER DESIGN STANDARDS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Changes are proposed in Chapters 12 and 18C of the design standards to implement the decisions of the Commission made on May 20, 1986, and June 16, 1986. Changes are also proposed in Chapters 14, 16 and 18C to address the concerns of the Wastewater Treatment Committee of the Commission expressed in response to question numbers 1, 8, 11, 19, 30, 31, 32 and 34 of the questionnaire used by this committee in their review of all design standards. In response to the suggestion repeated throughout the committee responses, it is proposed to solicit comments in the Notice of Intended Action on the effects on the size of units, the cost savings and the ability for plants to meet effluent limit requirements if the average daily flow (average of 365 days) were used for design rather than average wet weather flow as now required.

If the Commission authorizes it, three public hearings on the proposed changes in the standards and comments on flows can be held throughout the state beginning on April 1, 1987, and written and oral comments can be received through April 16, 1987. The results of the comments and recommendations are scheduled to be brought back to the Commission at the June, 1987 meeting.

Following are descriptions of the proposed changes in the standards.

Chapter 12: Incorporate the cost-saving changes for unsewered communities developed by an ASCE sponsored committee. These include six-inch sewers, lower minimum sewer velocities and flatter slopes, increased manhole spacing, cleanouts and curved and variable grade sewers. In addition, it is proposed to correct several minor errors in the standard and to delete asbestos-cement pipe due to its manufacture and use being eliminated on a national scale.

Chapter 14: Add a section requiring plant design to meet effluent limitations without reference to flows, delete wording which ties permit limitations to defined flows, and add a prohibited wastes section similar to that in Chapter 18A. In addition, remove the limitation on plant size for the use of holding ponds in lieu of duplication of major treatment units on plants for Facility Class II and III.

Chapter 16: Revise surface settling rates to be consistent with the ten states standards.

Chapter 18C: Permit baffles to form the quiescent cell, delete the requirement for a protective soil cover over synthetic liners, delete the requirement for a minimum of two surface aerators per cell except for the first cell, and change the current requirement for a spare surface aerator for standby to require only a motor and prop assembly (or drive train).

ENVIRONMENTAL PROTECTION COMMISSION (567)
Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.105 as amended by 1986 Iowa Acts, Senate File 2175, section 1887, and 1985 Iowa Code supplement section 455B.173 as amended by 1986 Iowa Acts, Senate File 2175, section 1899A, the Environmental Protection Commission for the Department of Natural Resources, formerly the Water, Air and Waste Management Commission for the Department of Water, Air and Waste Management, amends the subrule which provides engineering design standards for several aspects of wastewater disposal systems, in Chapter 64, "Wastewater Construction and Operation Permits," of Title IV, "Wastewater Treatment and Disposal." This rule may have an impact on small businesses.

Part I of Division III of Iowa Code Chapter 455B (455B.171-455B.187), as amended by 1986 Iowa Acts, Senate File 2175, sections 1899, 1899A and 1899B, authorizes the department to administer, among other things, a construction permit program for wastewater disposal systems. Iowa Code sections 455B.173(3) and (8) as amended by 1986 Iowa Acts, Senate File 2175, section 1899A, require the Commission to adopt rules relating to the location and construction of disposal systems. During the past several years, the department has completed the compilation of all pertinent design standards into a single manual which can be used by the public and by design engineers. The amendments being proposed are changes to Chapters 12, 14, 16 and 18C of the design standards for wastewater disposal systems which are adopted by reference in 567-64.2(9)"b". The date for adoption by the Commission of these rule amendments is projected to be June, 1987. This projected date for adoption is reflected in Item 1 of this Notice of Intended Action.

The design standard chapters of 64.2(9)"b" which the Commission proposes to amend are more specifically, Chapter 12: Iowa Standards for Sewer Systems, Chapter 14: Wastewater Treatment Works, Chapter 16: Settling, and Chapter 18C: Wastewater Treatment Ponds (Lagoons). Amendments to Chapter 12 concern cost saving changes concerning unsewered communities. The changes to Chapter 12 of the standards include the allowance of the following for unsewered communities: six-inch sewers for the last 800 feet of dead ends, minimum sewer velocities of 1.5 feet per second flowing full and flatter minimum slopes, maximum manhole spacing of 800 feet, cleanouts at the ends of sewers, and curved and variable grade sewers. These items are now being permitted by variances and should be incorporated into the standards. Section 12.4a has been changed to eliminate the use of asbestos-cement pipe for sanitary sewers since its manufacture and use are being eliminated on a national scale.

Amendments to Chapter 14 include adding a section requiring plant design to meet effluent limitations without reference to flows in section 14.3 and deleting the wording which ties permit limitations to defined flows in sections 14.4.5.1, 14.4.5.4 and 14.4.6.2. A prohibited wastes section similar to that found in section 18A.4.2 is added to this chapter in section 14.4.1.

The limitation to plants designed to serve less than an average of 340 pounds of BOD per day is removed from section 14.5.2.1 and a paragraph is

added detailing holding pond requirements. This permits the use of holding ponds in lieu of duplication of major treatment units for plants of all sizes for Facility Reliability Class II or III. The Department also solicits comments on the effects on the size of units, the cost savings for construction of treatment facilities and on the ability of such facilities to meet effluent limit requirements if the average wet weather flow defined in section 14.4.5.1 were eliminated and replaced by the average daily flow (average flow for 365 days). Average daily flow would then replace average wet weather flow wherever the latter appears throughout all chapters of the standards.

Amendments to Chapter 16 include revision of surface settling rates (overflow rates) to be consistent with "Recommended Standards for Sewage Works" (Ten States Standards) as adopted by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, now known as the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers. The revisions are found in sections 16.3.2.2, 16.3.2.3, 16.3.2.4.1, and 16.3.2.4.2.

Amendments to Chapter 18C include: revision of the standard to permit baffles in the final cell to form the quiescent cell in sections 18C.6.1.1, 18C.6.1.2, 18C.6.2, and 18C.7.1.1, deletion of the requirement for a protective soil cover over synthetic liners in section 18C.7.3.2, and deletion of the requirement for a minimum of two surface aerators per cell except for the first cell in sections 18C.6.4.1c and 18C.6.4.6a. Section 18C.6.4.1c is revised to change the current requirement for a spare surface aerator for standby to a motor and prop assembly (or drive train). Other changes have been made to correct typographical errors in the design standards in these chapters.

Copies of the proposed changes in the standards are attached to this notice and filed with the Administrative Rules Coordinator to be incorporated by reference into subrule 64.2(a), paragraph "b".

Any interested person may file written suggestions or comments on the proposed rule changes through April 16, 1987. Such written materials should be directed to Wayne Reed, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319. Persons who want to convey their views orally may contact Wayne Reed at 515/281-6853 by that date. Persons are also invited to present oral or written comments at public hearings which will be held on April 1, 1987 at 11:00 a.m. at the Iowa Department of Natural Resources, Geological Survey Bureau, Trowbridge Hall, 123 North Capitol, Iowa City, Iowa 52242; on April 3, 1987 at 11:00 a.m. at the West Pottawattamie County Extension Service, 1705 McPherson, Suite GL100, Council Bluffs, Iowa 51501; and on April 6, 1987 at 11:00 a.m. in the fifth floor east conference room, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319.

Copies of the proposed design standards may be obtained from Wayne Reed, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code Chapter 455B, Division III, Part I, as amended by 1986 Iowa Acts, Senate File 2175, sections 1899, 1899A and 1899B.

ITEM 1. Amend subrule 64.2(a), paragraph "b", as follows:

b. The chapters of the "Iowa Wastewater Facilities Design Standards" that apply to wastewater facilities projects, and the date of adoption of those chapters are:

<u>Chapter</u>	<u>Date Of Adoption</u>
11. Project submittals	April 25, 1979
12. Iowa Standards for Sewer Systems	September 6, 1978
	(Amended March 28, 1979 and June, 1987)
13. Wastewater pumping stations and force mains	March 19, 1985
14. Wastewater treatment works	March 22, 1984
	(Amended June, 1987)
15. Screening, and grit removal & flow equalization	February 18, 1986
16. Settling	March 22, 1984
	(Amended June, 1987)
17. Sludge handling & disposal	March 26, 1980
18. Biological treatment	Reserved
A. Fixed film media treatment	October 21, 1985
B. Activated sludge	March 22, 1984
C. Wastewater treatment ponds (Lagoons)	April 25, 1979
	(Amended May 20, 1986 and June, 1987)
19. Supplemental treatment processes	November 13, 1986
20. Disinfection	February 18, 1986
21. Land application of wastewater	April 25, 1979

February 17, 1987

Larry J. Wilson, Director

Proposed Changes In Standards

12.4 MATERIALS

Standards shall be as listed below for the respective materials

<u>a. Rigid Pipes</u>	<u>Material Spec.</u>	<u>Joint Spec.</u>
Asbestos Cement	ASTM C 428 77	ASTM D 4869 66

12.5 DETAILS OF DESIGN

12.5.1 Diameter

No public gravity sanitary sewer shall be less than eight inches in diameter, with the following exception.

For unsewered communities, six-inch diameter sewers may be used for the last 800 feet (approximately two blocks) of sewer, provided the six-inch sewer has sufficient hydraulic capacity and is a dead end not subject to future extension.

A manhole or a cleanout must be provided at the end of the six-inch lateral sewer pipe.

12.5.3 Slope

Under no circumstances will the average design velocity when flowing full be allowed to drop below 1.5 feet per second based on Kutter's formula using an "n" value of 0.013.

The following exceptions to the above requirements in this section shall apply for unsewered communities only.

A minimum velocity of 2.0 feet per second when flowing full should be maintained in all sewer mains. However, in specific cases where savings in sewer cost are possible or a lift station could be eliminated, a minimum sewer velocity of 1.5 feet per second when flowing full will be permitted. An "n" value of 0.013 shall be used for design of PVC pipe, vitrified clay pipe, and ABS truss pipe. Minimum slopes for 8" sewers flowing full at 2.0 feet per second and 1.5 feet per second shall be 0.40 ft./100 ft. and 0.22 ft./100 ft. Minimum slopes for 6" sewers flowing full at 2.0 feet per second and 1.5 feet per second shall be 0.60 ft./100 ft. and 0.34 ft./100 ft. In cases where a minimum sewer design velocity of 1.5 feet per second is used, the city will be required to give written assurance to the department that any additional sewer maintenance required by reduced slopes and velocities will be provided.

12.5.4 Alignment

Sewers 24 inches or less shall be laid with straight alignment between manholes.

The following exceptions to the above requirement in this section shall apply for unsewered communities only.

Vertical and horizontal curved or variable grade sewer construction may be proposed by the design engineer. Whenever curved or variable grade sewer construction is proposed, the design engineer is to develop a proposed design basis and submit it to the department for review.

The city will be required to give written assurance that arrangements will be made for hydraulic sewer cleaning equipment to be available when necessary for cleaning curvilinear sewers.

12.5.7 Manholes

c. Cleanouts may be permitted in place of a manhole at the end of lines which are less than 150 feet in length.

d. The following exceptions to the requirements for

manhole location and cleanouts in this section shall apply for unsewered communities only.

Manhole spacing for 6 and 8-inch sewers shall be a maximum of 400 feet or at intervals not exceeding 500 feet when adequate cleaning equipment is available. All other sewers shall have a maximum manhole spacing of 800 feet, with manholes also to be placed at the junctions of sewers. When the manhole spacing exceeds 400 feet, the city will be required to give written assurance that appropriate sewer cleaning equipment suitable to clean the distances between manholes will be made available when necessary.

Cleanouts can be installed at the ends of sewers of any size in lieu of manholes. If the sewer is ever extended, the cleanout must be removed and a sewer manhole constructed at that point if the maximum distance between manholes has been reached. Cleanout lids should be bolted down to prevent entry of foreign objects.

12.5.11 Sewer Crossing Under a Waterway

The top of all sewers entering or crossing streams shall be at a depth below the natural bottom of the stream bed sufficient to protect the line. One foot of cover over the top of the line is required where the sewer is located in rock or cased and three feet of cover is required in other material. In major streams, more than the three feet of cover may be required.

12.7.2 Allowable Leakage

The maximum allowable infiltration or exfiltration for any new gravity sanitary sewer section, including all manholes, is 200 gallons per inch of diameter per mile of pipe per day. Manholes may be tested separately.

14.3 QUALITY OF EFFLUENT

This Department establishes the effluent limitations for each wastewater discharger. Effluent limitations for existing wastewater dischargers are available from the Department. The effluent limitations for new dischargers or significantly modified dischargers are established by the Department upon request. The minimum degree of treatment shall be standard secondary treatment for municipal facilities and the industrial effluent guidelines as defined by Department rules and Federal regulations for industrial facilities. A higher degree of treatment will be required if the minimum degree of treatment requirements would violate state water quality standards. Design engineers must obtain effluent limitations prior to preparation of the engineering report or facilities plan. The facilities must be designed to meet average effluent limitations in the operation permit

during any 30-day period and to not exceed maximum seven-day average effluent limitations.

14.4 DESIGN

14.4.1 General

14.4.1.1 Type of Treatment

Careful consideration shall be given to the type of treatment selected in the engineering report or facilities plan as required by Section 11.2.9.5.

14.4.1.2 Industrial Wastes

Consideration shall be given to the type and effects of industrial wastes on the treatment process. It may be necessary to pretreat industrial wastes prior to discharge to the sanitary sewer system.

14.4.1.3 Prohibited Wastes

The following wastes shall not be discharged to treatment facilities without assessment of their effects upon the treatment process or discharge requirements in accordance with state and federal law:

- a. Any toxic chemicals which may inhibit biological or bacteriological processes.
- b. Any strong oxidizing agents or disinfectants in quantities sufficient to inhibit the growth of microorganisms.
- c. Metal plating wastes or other toxic wastes containing heavy metals and/or toxic or noxious inorganic chemicals, such as cyanide, reduced sulfur compounds, arsenic and selenium.
- d. Detergent wastes or other wastes containing excessive phosphorous or surfactants.
- e. Plastics, pharmaceutical wastes and/or other synthetic organic chemicals not amenable to biological treatment.
- f. Any wastes containing excessive amounts of nonbiodegradable oil and grease or tar.
- g. Any acidic or alkaline wastes which because of quantity, strength or unequalized flow

may upset the biological process.

- h. Any wastes containing in excess of one milligram per liter phenols.
- i. Any wastes containing radioactive chemicals.
- j. Nutrient deficient wastes which cannot meet the normal ratio of 100 BOD₅: 5 Nitrogen: 1 Phosphorous necessary for the maintenance of the biological community. An example would be paper mill wastes.
- k. Any wastes that might cause physical deterioration of the filter media, piping or structures.
- l. Any other waste which may be defined as an incompatible pollutant.

14.4.5 Hydraulic Design

14.4.5.1 Critical Flow Conditions, Municipal

- d. Peak Hourly Wet Weather (PHWW) Flow - The total maximum flow received during one hour when the ground water is high, runoff is occurring, and the domestic commercial and industrial flows are at their peak. The domestic/ commercial peak hour flow shall be based on actual monitoring information or the use of a peaking factor determined by use of Appendix I, Chapter 12 of these Standards. The runoff flow component shall be adjusted to the storm event of two inches of rainfall in one hour.

The treatment plant must be designed to meet the average limitations in the operation permit at average dry weather and average wet weather flow conditions. The maximum permit limitations must be met at maximum wet weather flow. The peak hourly wet weather flow is not associated with permit limitations, however, this flow shall be used to evaluate the effect of hydraulic peaks on the design of pumps, piping, clarifiers, and any other flow sensitive aspects.

14.4.5.4 Critical Flow Conditions, Industrial

The treatment plant must be designed to meet the average effluent limitations discussed in Section

14.3. in the operation permit at maximum 30 days flow conditions. The maximum permit limitations must be met at maximum day conditions. The peak hourly and other critical flow conditions are not associated with permit limitations, however, these flows must be considered in evaluating unit processes, pumping, piping, etc.

14.4.6.2 Industrial Loadings

The treatment facility must be designed to meet the average effluent limitations discussed in Section 14.3. at the maximum 30 day average organic load and the maximum effluent limitation at the maximum day organic load. In addition, diurnal peaks of organic loads must be addressed if such peaks adversely affect a unit process.

14.5.2.1 Unit Process Reliability Criteria A

The following reliability is required for any mechanical treatment facility that is designed to serve less than an average of 340 pounds of BOD per day, is Facility Reliability Class II or III, and is required to provide standard secondary treatment. (Facilities of this size with Reliability Class I are covered by Unit Process Reliability Criteria B under 14.5.2.2. or Reliability Criteria C under 14.5.2.3).

1. Duplication of major treatment units is not required. If provided, duplication for any unit process or operation shall, as a minimum, be in accordance with the appropriate part of Process Reliability Criteria B.
2. When duplicate units are not provided, the facility shall be followed by include a pond having five (5) days storage capacity for the average wet weather flow and with capability to bypass the pond when effluent limitations are being met. This pond may also be used for flow equalization. if so, provisions for returning the holding pond contents to the treatment process are required.

The pond shall be constructed in accordance with the applicable provisions of Section 18.7, particularly Section 18.7.3 pertaining to sealing of the pond bottom and maximum percolation rate. Separate volumes must be provided in the pond for the five

(5) days storage capacity for the average wet weather flow and for flow equalization if it is planned to use the pond for both purposes. A minimum water level of two (2) feet shall be maintained at all times. Adequate provisions must be made for the necessary valving, piping, pumping, metering, aeration and sludge removal capabilities to permit the pond to be maintained and operated in a manner to effectively perform its intended functions.

16.3.2 Surface Overflow Rates

16.3.2.2 Primary Settling Tanks

Surface overflow rates for primary tanks should not exceed ~~800~~ 1,000 gallons per day per square foot at AWW flows or 1,500 gallons per day per square foot for PHWW flows. Clarifier sizing shall be calculated for both flow conditions and the larger surface area determined should be used. At these rates, primary settling of normal domestic sewage can be expected to remove 30 to 35% of the influent BOD. The overflow rates may be increased, but lower removal rates shall be assumed unless adequate chemical addition is provided.

16.3.2.3 Intermediate Settling Tanks

Surface settling rates for intermediate settling tanks following the carbonaceous stage of a separate stage nitrification activated sludge process shall not exceed 900 gallons per day per square foot at AWW flows or 1,200 gallons per day per square foot for PHWW flows. Higher surface settling rates may be permitted if such rates are shown to have no adverse effects on subsequent treatment units.

Surface settling rates for intermediate settling tanks following series units of fixed film reactor processes shall not exceed 1,500 gallons per day per square foot based on PHWW flows.

16.3.2.4 Final Settling Tanks

16.3.2.4.1 Final Settling Tanks - Fixed Film Biological Reactors

Surface overflow rates for settling tanks following trickling filters or rotating biological contactors

treating domestic wastewater shall not exceed 600 gallons per day per square foot based on AWW flow or 1,200 gallons per day per square foot for PHWW flows.

16.3.2.4.2 Final Settling Tanks - Activated Sludge

To perform properly while producing a concentrated return flow, activated sludge settling tanks must be designed to meet thickening as well as solids separation requirements. Since the rate of recirculation of return sludge from the final settling tanks to the aeration or reaeration tanks is quite high in activated sludge processes, surface overflow rates shall be low enough to minimize the problems with high solids loadings, density currents, inlet hydraulic turbulence, and occasional poor sludge settleability. The surface settling rates of final settling tanks following the activated sludge processes shall be based on AWW flow and PHWW flow. The hydraulic loadings for facilities treating domestic wastewater shall not exceed the following:

Process Type	Hydraulic Loading at PHWW Flow gpd/s.f.	
	Average (AWW)	Peak (PHWW)
All (except as listed below)	600	1,200
Contact Stabilization	500	1,200
Extended Aeration	400	1,000
Separate Nitrification	400	800
High-Purity Oxygen With Primary Settling	600	1,200

18C.6 AERATED FACULTATIVE POND DESIGN

18C.6.1 Sizing of Aerated Facultative Ponds

18C.6.1.1 Detention Time for Typical Waste

As a minimum, aerated facultative pond systems designed to treat a typical domestic waste (BOD_5 200 mg/l) shall consist of two or more aerated cells and one quiescent cell or zone which provide the following minimum hydraulic detention times:

18C.6.1.2 Detention Time for Greater Strength Waste

Aerated facultative pond systems designed to treat greater strength waste with a BOD_5 of 400 mg/l or more shall consist of three or more aerated cells and one quiescent cell or zone. The first two cells shall be of equal size and no one cell shall provide more than 50% of the total required volume.

18C.6.2 System Reliability and Piping

The pond cells and piping shall be designed such that reliability and flexibility of operation are provided. All systems shall be designed with piping flexibilities to permit isolation of any cell without affecting the transfer and discharge capabilities of the total system. In addition,, the ability to discharge the influent waste load to a minimum of two cells and to all primary cells in the system shall be provided. Raw influent shall not be diverted to the ~~final~~ {quiescent} cell or zone. When disinfection is required, cell isolation shall not result in bypassing of the disinfection facilities.

18C.6.4 Aeration Equipment

18C.6.4.1 General

- c. Reliability in mechanical aeration systems, to include surface aerators (floating and fixed) shall be provided in accordance with the following:

There shall be a sufficient number of aerators to enable the design oxygen transfer of a particular cell to be maintained

with the largest capacity aerator in that cell out of service. It is permissible for the backup aerator to be a complete uninstalled unit or a motor and prop assembly (drive train) provided that the installed aerator or parts can be easily removed and replaced. However, at least two aerators ~~per cell~~ shall be installed in the primary ~~for all cells~~.

18C.6.4.6 Floating Surface Aerators

- a. Floating surface aerators shall be of the submerged motor type or the subsurface horizontally mixing aspirator type. As a minimum, one surface aerator shall be installed for each acre of aerated lagoon surface area and at least two aerators in the primary ~~per cell~~.

18C.7 POND CONSTRUCTION DETAILS

18C.7.1 Pond Shape

18C.7.1.1 General

The shape of all cells should be such that there are no narrow or elongated portions. No islands, peninsulas or coves shall be permitted. Dikes should be rounded at corners to minimize accumulations of floating materials. Common dike construction, wherever possible, is strongly encouraged. Individual cells must be separated by earthen dikes except that the quiescent cell or zone may be formed by baffling off an area in the final aerated cell. Additional baffling in any cell can be provided to prevent short circuiting.

18C.7.3 Pond Bottom

18C.7.3.2 Seal

Synthetic liners shall have a minimum thickness of 30 mills and shall be installed under the supervision of a qualified manufacturer's representative. They shall be protected by an inorganic soil layer with a minimum thickness of one foot. The soil shall be uniformly graded and free from large rocks, angular stones, soil

clumps, sticks or other material which may puncture the liner. When a granular, noncohesive soil is used for the cover, a soil fabric shall be placed between the liner and the soil cover. The soil fabric and the synthetic liner shall be anchored at the dike berm and Synthetic liners shall be vented if gas generation from decaying organic material or air pumping from a fluctuating ground water table is a potential problem.

Discussion followed. Chairman Schlutz stated that he wants the record to show that there has not been a change in the effluent standards.

Motion was made by Catherine Dunn to approve Notice of Intended Action-- Chapters 12, 14, 16 and 18C, Wastewater Design Standards. Seconded by Charlotte Mohr. Motion carried unanimously.

Richard Timmerman requested that each member who served on the Wastewater Design Standards subcommittee be sent a copy of this notice of intended action.

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

RULEMAKING STATUS REPORT

February 1, 1987

PROPOSAL	DRAFT TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 2 - Public Information	10/27/86	11/19/86	12/10/86	--	1/20/87	1/20/87	2/11/87	3/18/87
2. Ch. 3 - Submission of Information	10/27/86	11/19/86	12/10/86	--	1/20/87	1/20/87	2/11/87	3/18/87
3. Ch. 6 - Declaratory Rulings	1/20/87	2/11/87		--				
4. Ch. 22, 23 PSD	11/12/86	12/03/86	1/06/87	12/23/86 12/30/86 1/06/87	2/17/87	*2/17/87	*2/20/87	*4/15/87
5. Ch. 64 - Design Standards (12, 14, 16, 18C)	2/17/86							
6. Ch. 65 - Feedlots	11/12/86	12/03/86	1/06/87	12/23/86 12/30/86 1/05/87				
7. Ch. 135 - Underground Tank Monitoring	12/15/86		2/10/87	2/03/87 2/05/87 2/10/87				

*Projected

MONTHLY VIOLANCE REPORT

01/31/87

Facility	Program	Engineer	Subject	Decision	Date
1 Bloomsfield Foundry	Air Quality		Equipment Malfunction	approved	01/12/87
2 Maple County	Flood Plain		Percent Length Red.	approved	01/09/87
3 Dyersville, City of	Flood Plain	ILW Associates	Percent Length Red.	approved	01/20/87
4 Green Land, Inc.	Flood Plain	Kuehl & Payer	Freeboard	approved	01/20/87

REPORTS OF HAZARDOUS CONDITIONS

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During the period of January 1, 1987 through January 31, 1987, reports of 48 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted, followed by a general summary and the number per field office.

Date Reported and County	Description: Material, Amount, Date of Incident Cause, Location, Impact	Responsible Party	Response and Corrective Actions
1/22/87 STORY	A bung rusted out near the bottom of an above ground storage tank near Nevada, Iowa and allowed about 5,600 gallons of 28% liquid nitrogen fertilizer to saturate about one to two feet of soil on January 22, 1987.	Heart of Iowa Co-Op, R.R. 2, Nevada, Iowa 50201	An end loader was used to dig a sump and liquid was pumped up for application on land. Saturated soil was also applied on land. The discharge from a six-inch drain tile was monitored for the presence of ammonia.
1/22/87 MUSCATINE	A liner apparently ruptured in a tanker truck that was pressurized to unload a 19% solution of ferric chloride at the wastewater treatment plant in Muscatine, Iowa on January 22, 1987. About 250 gallons of the material corroded through the seam of the tanker, spilled onto a parking lot, and ran into a ditch.	Ruan Transportation, P.O. Box 855 Des Moines, Iowa 50304	The material was contained with sand, and neutralized with agricultural lime. The mixture was disposed with plant sludge at the sludge application site. The top six inches of contaminated soil were excavated, neutralized, and also disposed at the sludge application site.

Numbers in Parentheses Represent Reports For The Same Period in Fiscal Year 1986

Month	Total # of Incidents Reported	Substance Type			Mode					
		Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct	79	41	0	34	55	0	18	2	0	6
Nov	24	12	5	9	17	0	9	1	0	1
Dec	43 (23)	36 (14)	1 (2)	6 (2)	24 (14)	1 (0)	14 (4)	1 (1)	0 (1)	3 (3)
Jan	48 (43)	32 (26) UST - 12	3 (9)	13 (12)	37 (29) UST - 12	0 (0)	9 (8)	0 (2)	1 (0)	1 (4)

Total # of Incidents Per						
Field Office	1	2	3	4	5	6
This Period	7	4	6	6	15	10

Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Elite, Ltd., Schroeder Oil Co., Country Stores of Carroll Carroll, Iowa (4)	Underground Tanks	Prohibited Discharge	Order	1/5/87
Independence Corn By-Products, Independence (1)	Air Quality	Fugitive Dust	Order	1/6/87
City of Dysart (5)	Wastewater	Prohibited Discharge	Order/Penalty	1/8/87
City of Kellogg (5)	Wastewater	Prohibited Discharge	Order/Penalty	1/15/87
John Deere - Dubuque (1)	Wastewater	Prohibited Discharge	Order	1/15/87
ASPRO, Inc. (5)	Air Quality	Failure to Obtain a Permit	Order	1/15/87
City of Charles City (2)	Wastewater	Prohibited Discharge Compliance Schedule	Order	1/15/87
General Battery Corp. Manchester (1)	Wastewater	Prohibited Discharge	Order	1/27/87
Ken Turner, Lee Courty (6)	Solid Waste	Open Dumping	Order/Penalty	1/30/87
Robert Flynn, Washington County (6)	Flood Plain	Channel Change	Order	1/30/87
Meadow Mist Motel, Oelwein (1)	Drinking Water	Failure to monitor bacteria	Order/Penalty	1/30/87
Shady Oaks Golf Course, Ackworth (5)	Drinking Water	Failure to monitor bacteria	Order/Penalty	1/30/87

SUBJECT: Summary of Administrative Penalties

The following administrative penalties are due:

<u>NAME</u>	<u>AMOUNT</u>	<u>DUE DATE</u>
*Otter Creek Station	\$ 189	5-09-86
*New Shack Tavern	230	5-13-86
Shelter Shield	1,000	12-03-86
Lawrence Payne	700	12-05-86
Country Corner Cafe	400	12-21-86
Cedar Hills Apartments	1,000	12-29-86
K & K Truckstop	212	12-29-86
Indian Creek Country Club	162	1-02-87
Chico's Supper Club	863	2-10-87
Roiscree Company	1,000	2-17-87
1st Pleasant View Subdivision	224	3-06-87
Redwood Resort	289	3-07-87
OK Lounge	448	----
City of Dysart	400	----
City of Kellogg	1,000	----
Meadow Mist Motel	212	----
Shady Oaks Golf Course	212	----
Ken Turner	1,000	----

The following administrative penalties have been appealed:

<u>NAME</u>	<u>AMOUNT</u>
Iowa Power and Light	\$1,000
*Finlan Landfill	1,000
Besch/Kalston	500
Iowa Public Service	1,000
Kula and Boge	1,000
McConnell; Yoder Feed	1,000
Handi-Klasp, Inc.	1,000
NW States Cement	1,000
Mahaska County SLF	600

*Referred to the Attorney General

The following administrative penalties were paid in January:

<u>NAME</u>	<u>AMOUNT</u>
Rayburn Mobile Home Court	\$ 212
Rice Lake Water	100
*Woodland Park	1,000
Jacobsma Gilts, Inc.	1,000
Collis, Inc.	1,000
*Kit Kat Club	62

Penalties were rescinded for the following:

4-Way Tap
Waddell Bros. Metal

* Referred to the Attorney General

Department of Natural Resources
Environmental Protection Commission
Contested Cases
February 1, 1987

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
10-26-85 1-20-86	Frit Industries	Administrative Order Hazardous Waste Registry	HM	Landa	Settlement close.
9-14-84	Belmond, et. al.	Administrative Order	HC	Landa	Proposed decision 11-4-85; appealed.
10-17-85	City of Ravington	Administrative Order	WW	Hansen	Hearing continued.
10-23-85	Farmers Coop. Elevator Company	Permit Condition	WW	Hansen	Hearing continued.
1-23-86	Delwin Soil Service	Administrative Order	WW	Landa	Hearing continued pending evaluation of test results.
5-07-85	Iowa Power and Light	Administrative Order	Air	Landa	Hearing continued.
9-21-85	Besch and Reiston	Administrative Order	SW	Landa	Settlement close; Removal begun.
6-12-86	ADM - Clinton	Administrative Order	Air	Landa	Hearing continued.
7-30-86	IBP - Columbus Junction	NPDES Permit	WW	Hansen	Hearing held 1-14-86; briefs to be filed.
9-10-86	Farmer's Mutual Coop	Administrative Order	WW/SW	Landa	Negotiating before filing.
9-10-86	Kula and Boge	Administrative Order	SW	Landa	Negotiating before filing. Removal started.
10/02/86	Long Branch Maint. Corp.	Administrative Order	WS	Murphy	Proposed decision 12-23-86.
10/22/86	Yoder Feeds, Inc. et al	Administrative Order	WW/SW	Kennedy	Hearing held 12-16-86; briefs filed.
10/27/86	Union County/Wittstock	Permit Issuance	FP	Clark	Remanded by District Court.
10/28/86	Lamoni Municipal Utilities	Administrative Order	WW	Hansen	Negotiating before setting hearing.
10/29/86	Handi-Klasp Company, Inc.	Administrative Order	AQ/WW SW	Landa	Hearing continued.
11/05/86	Nebraska Co. SLF	Administrative Order	SW	Kennedy	Hearing set for 2-17-87.
11/14/86	Gels Conrad	Permit Condition	FP	Clark	Hearing continued.
11/18/86	Northwestern States	Administrative Order	WW	Landa	Hearing continued.
12-03-86	City of Waukeg	Administrative Order	WS	Hansen	Hearing set for 2-11-87.
12-04-86	City of Sully	Administrative Order	WS	Hansen	Settled.
12-04-86	Culligan Water Conditioning Co.	Permit Denial	WW	Hansen	Settled.
12/11/86	Eloise Reese	Permit Condition	FP	Clark	Hearing set for 3-11-87.
12/12/86	Berch Wood Specialties	Permit Denial	AQ	Landa	Hearing set for 3-5-87.
12/18/86	Fawn Engineering Corp.	Permit Denial	SW	Landa	Hearing set for 3-4-87.
12/24/86	Francis Haebertin	Administrative Order	FP	Clark	Hearing set for 2-26-87.
12/30/86	Agripro Seeds	Permit Denial	AQ	Landa	Hearing set for 3-2-87.
12/31/86	Modine Mfg. Co.	Permit Denial	AQ	Landa	Negotiating before filing.

Mr. Stokes stated that, in reference to the Feedlot Rules, the Administrative Rules Review Committee requested an economic impact statement which will delay any further action on the rule at this time. The economic impact statement is completed and will be presented at the March meeting for Commission approval. The final adoption of these rules will probably not occur before May.

Mr. Stokes added that last week the Underground Storage Tank Rules went to the Administrative Rules Review Committee and they requested an economic impact statement. We have 45 days to complete the economic impact statement and expect to present it at the March meeting for Commission approval.

Keith Uhl suggested that the Administrative Rules Review Committee be informed of the costs and staff time involved in the preparation of an economic impact statement.

In reference to the Enforcement Report, there was discussion as to whether the rules could be written so that, if a party does not accept the administrative penalty, it could come before the Commission as a full-fledged referral to the Attorney General's Office.

Allan Stokes stated that it may be viewed as being coercive, but he will have Legal study it and return an answer at the March meeting.

FINAL RULE -- 567 CHAPTERS 22 AND 23, PREVENTION OF SIGNIFICANT DETERIORATION

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission is requested to adopt the amendments to Chapters 22 and 23 contained in Attachment 2 of the enclosed Summary of Comments. These amendments adopt the EPA Prevention of Significant Deterioration (PSD) regulations which pertain to the permitting of major sources or major modifications to existing sources located in attainment area.

The Commission approved the Notice of Intended Action for these amendments in November, 1986. Three hearings were held. The comment period expired on January 10, 1987.

Six written comments were received. Five were from Iowa industries or organizations and were supportive of the proposal. The sixth was from EPA and suggested several changes. These are discussed in detail in the attached summary.

After the rules have been adopted, the Department will enter into a delegation agreement with EPA in order to implement the PSD program in Iowa in the interim until the rules can be submitted and approved by EPA as a State Implementation Plan (SIP) revision. The attached summary is intended to provide the documentation for that SIP revision.

ENVIRONMENTAL PROTECTION COMMISSION (567)
Adopted Rule

Pursuant to the authority of Iowa Code section 455B.133(2), the

Environmental Protection Commission hereby gives adopts amendments to Chapter 22, "Controlling Pollution" of the Iowa Administrative Code (IAC) as it pertains to the permit requirements for new stationary sources of air pollution. The Notice of Intended Action of these amendments was published in the December 3, 1986 Iowa Administrative Bulletin as ARC 7188. Public hearings were held on December 23 and 30, 1986 and January 6, 1987. These amendments were adopted on February 16, 1987.

Iowa Code section 455B.133(1) authorizes the Commission to develop comprehensive plans and programs for the abatement, control and prevention of air pollution in Iowa. Among other measures specified in 455B.133(1) to be included in the plans and programs are measures to prevent the significant deterioration of air quality. By this action, the Commission proposes to adopt a program for the review and permitting of major sources which intend to locate in areas which have been designated as "attainment" or which are unclassified. This Prevention of Significant Deterioration (PSD) program is required to be developed, implemented and enforced by Part C of the Clean Air Act, and is currently being conducted in Iowa by the Environmental Protection Agency (EPA).

A number of written comments were received by the Commission in response to the request for comments. Upon consideration of these comments, particularly those submitted by the EPA, the Commission has made a number of changes to the amendments proposed originally. These changes are as follows:

A new Item 1 is adopted which amends subrule 22.1(1), the subrule setting forth the general permitting requirements. The subrule is modified to reference the newly adopted PSD requirements and previously adopted requirements for sources locating in nonattainment areas.

New Items 3 and 4 modify paragraphs 567--22.1(3)"b", and 22.1(4)"a" and "b", respectively, to also include reference to the newly adopted PSD program. This modification is necessary to clarify the applicability of the PSD program to previously adopted programs.

Item 5 is the formally designated Item 2 in the Notice of Intended Action; subrule 22.4(1) is modified to reference the most recent EPA guideline on air quality modeling.

Subrule 22.4(2) is modified to more accurately reflect the oversight responsibilities of EPA and the concurrent jurisdiction that EPA retains over the PSD program.

Finally, Item 3 of the Notice of Intended Action is eliminated. The Commission has determined that the proposed modification is confusing and not necessary.

The adopted amendments to 567--Chapter 22 are as follows:

ITEM 1 Amend the first paragraph of subrule 567--22.1(1) to read as follows:

22.1(1) Permit required. Unless exempted in subrule 22.1(2), no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit or conditional permit or a permit required pursuant to 22.4 (455B) and 22.5 (455B) as required in this subrule.

ITEM 2. Amend the first unnumbered paragraph of subrule 567--22.1(2) to read as follows:

22.1(2) Exemptions. The provisions of this rule shall not apply to the following listed equipment or control equipment unless review of such equipment or control equipment is necessary to comply with rule 22.4 (455B) or 22.5(455B), in which case a permit must be obtained.

ITEM 3. Amend paragraph 567--22.1(3)"b" by amending subparagraph 22.1(3)"b"(7) as follows:

(7) Any additional information deemed necessary by the department to determine compliance with or applicability of 22.4 (455B) and 22.5 (455B).

ITEM 4. Amend paragraph 567--22.1(4)"a" to read as follows:

a. Applicability determination. If requested in writing, the director will make a preliminary determination of nonattainment pursuant to the rule 22.4 (455B) and 22.5 (455B), based upon the information supplied by the requester.

Further amend paragraph 567--22.1(4)"b" by amending subparagraph 22.1(4)"b"(7) as follows:

(7) Any additional information deemed necessary by the department to determine compliance with or applicability of 22.4 (455B) and 22.5 (455B).

ITEM 5. Amend 567, chapter 22, by adding rule 22.4 which reads as follows:

567--22.4(455B) Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD). Except as provided in subrule 22.4(1), the following federal regulations pertaining to the prevention of significant deterioration are adopted by reference, 40 C.F.R. subsection 52.21 as amended through August 7, 1980.

22.4(1) Federal rules 40 C.F.R. 52.21(a) (Plan Approval), 52.21(q) (Public Participation), 52.21(s) (Environmental Impact Statement), and 52.21(u) (Delegation of Authority), are not adopted by reference. Also, for the purposes of 40 C.F.R. 52.21(1), the department adopts the 1986 edition of EPA document "Guideline on Air Quality Models (Revised) (EPA Publication 45012-78-027R)."

22.4(2) The term "administrator" shall mean the director of the Department of Natural Resources except that:

a. In subparagraph 52.21(b)(3)(iii) "net emissions increase," and paragraph 52.21(b)(17) "federally enforceable," it shall mean both the director of the Department of Natural Resources and the administrator of the Environmental Protection Agency (EPA).

b. It shall mean the administrator of EPA in 52.21(f)(1)(v), 52.21(f)(3), and 52.21(f)(4)(i) "increment consumption," 52.21(g)(1)-(g)(6) "redesignation," 52.21(1)(2), 52.21(p)(1) and (p)(2) "federal Class I areas," and 52.21(t) "disputed permits or redesignations."

c. It shall mean the director of the Department of Natural Resources or the administrator of the EPA, whichever has enforcement responsibility, in paragraphs 52.21(r) source obligation, and 52.21(w) permit recession.

22.4(3) The procedural requirements of 40 C.F.R. 51.161 (except the phrase "The plan shall provide that --") are hereby adopted by reference. For the purposes of this subrule the phrase "specified time period" shall mean thirty (30) days. The term "administrator" as it appears in subparagraph 51.161(d) shall mean the administrator of EPA.

February 17, 1987

Larry J. Wilson, Director

Motion was made by Clark Yeager to approve Final Rule--567, Chapters 22, 23, Prevention of Significant Deterioration. Seconded by Catherine Dunn. Motion carried unanimously.

LEGISLATIVE REPORT

J. Edward Brown presented Commission members with an update on the status of the Department's legislative bills along with a summary of other legislation of interest. A summary of the provisions of HSB 118, the General Assembly's groundwater bill, was also provided to the Commission. Mr. Brown stated that there are many provisions that will be found in HSB 118 that were not in the Department's package.

Mr. Brown discussed the status of each bill in detail. He stated that the House has divided the groundwater bill into the following four subcommittees: toxic clean-up, agricultural chemicals, solid waste, and leaking underground storage tanks. The Senate has also divided it into the same four subcommittees which makes it more feasible to work with.

DISCUSSION OF PENDING LITIGATION

Chairman Robert Schlutz asked that the Commission go into closed session to discuss Item #10 pending litigation. Mike Murphy stated that motion is needed to go into closed session pursuant to Iowa Code Section 21.5(1)C to discuss strategy with legal counsel in matters that are presently in litigation.

Motion was made by Clark Yeager to go into closed session. Seconded by Gary Priebe.

Chairman Schlutz requested a roll call vote.

"Aye" votes were cast by Commissioners Timmerman, Appelgate, Yeager, Uhl, Gieselman, Mohr, Priebe, Dunn and Schlutz. Motion carried 9 to 0. Commissioner Siebenmann was absent at the time this vote was taken.

Motion was made by Clark Yeager to adjourn the closed session and go into open session. Seconded by Linda Appelgate.

Chairman Schlutz requested a roll call vote.

"Aye" votes were cast by Commissioners Timmerman, Appelgate, Yeager, Uhl, Gieselman, Mohr, Priebe, Siebenmann, Dunn and Schlutz. Motion carried 10 to 0.

Chairman Schlutz announced that no action was taken in closed session.

ADDRESS ITEMS FOR THE NEXT MEETING

Logo design.

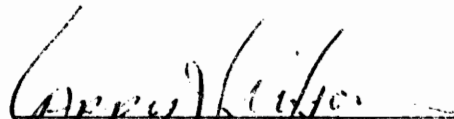
NEXT MEETING DATES

March 16, 1987
April 20-21, 1987
May 18-19, 1987

ADJOURNMENT

Motion was made by Catherine Dunn to adjourn. Seconded by Clark Yeager.
Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairman Schlutz adjourned the meeting at 3:15 p.m., Tuesday, February 17, 1987.


Larry J. Wilson, Director


Charlotte Mohr, Secretary

(EPC/2-87)

Feb. 1987

MEETING AGENDA
ENVIRONMENTAL PROTECTION COMMISSION
WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

February 17, 1987

Meeting Convenes at 8:30 a.m., 4th floor conference room.

Public Participation

10:30 a.m.

1. Approval of Agenda.
2. Approval of Minutes of January 20 and 26, 1987.
3. Review Environmental Protection Division Contract Activities.
(Kuhn) Informational.
4. Referrals to Attorney General's Office. (Combs) Decision.
5. Corrective Amendments to 455B. (Combs) Decision.
6. Notice of Intended Action--Chapters 12, 14, 15, 16 and 18C,
Wastewater Design Standards. (Stokes) Decision.
7. Monthly Reports. (Stokes) Informational.
8. Final Rule--567 Chapters 22 and 23, Prevention of Significant
Deterioration. (Stokes) Decision.
9. Legislative Report. (J. Brown) Informational.

NEXT MEETING DATES

March 16-17, 1987

April 20-21, 1987

May 18-19, 1987

ENVIRONMENTAL PROTECTION COMMISSION

NAME	COMPANY OR AGENCY	CITY
(Please print)		
DAVID L. DOOLEY	IOWA PUBLIC SERVICE	SIOUX CITY, IA
ROBERT WATTMAN	Amawa Refrigeration Inc.	Amawa
Manjorie Dennison	Cedar Rapids Gazette	Des Moines
Helene F Mahlen	Sierra Club	Bureau
		O. MOINES
Pamela Neely	Northern Natural Gas Co.	Des Moines